

Town of Leeds

Agenda Town of Leeds Planning Commission Wednesday, May 4, 2022

PUBLIC NOTICE is hereby given that the Town of Leeds Planning Commission **PUBLIC MEETING** scheduled for Wednesday, May 4, 2022 at 7:00 P.M. This meeting will be held at Leeds Town Hall, 218 N. Main Street, Leeds, UT 84746.

If you are interested in participating remotely via Zoom, please contact Town Hall at 879-2447 or email Clerk@LeedsTown.org for the Zoom details.

Regular Meeting 7:00 p.m.

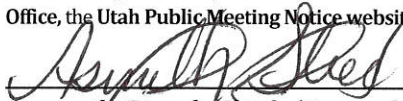
1. Call to Order/Roll Call
2. Invocation
3. Pledge of Allegiance
4. Declaration of Abstentions or Conflicts
5. Consent Agenda:
 - a. Tonight's Agenda
 - b. Meeting Minutes of 04/06/2022
6. Announcements:
 - a. Dumpster Days, 20, 21 & 22, Dumpsters located on Cherry Lane
7. Public Hearing:
 - a. Ordinance 2022-03, General Plan
 - b. Ordinance 2022-04, Annexation Policy Plan
 - c. Resolution 2022-02 To Adopt Modified State Code 10-9a-530, Internal accessory units
 - d. Addendum to Chapter 9, Performance and Standards for Hazardous and Other Uses
8. Action Items:
 - a. Action on Ordinance 2022-03, General Plan
 - b. Action on Ordinance 2022-04 Annexation Policy Plan
 - c. Action on Resolution 2022-02 State Code 10-9a-530, Internal accessory units
 - d. Discussion Possible Action Regarding Potter Property, 11.94
 - e. Discussion Possible Action Regarding Addendum to Chapter 9, Performance and Standards for Hazardous and Other Uses
9. Discussion Items:
10. Staff Reports
11. Adjournment

The Town of Leeds will make reasonable accommodations for persons needing assistance to participate in this public meeting. Persons requesting assistance are asked to call the Leeds Town Hall at 879-2447 at *least* 24 hours prior to the meeting.

The Town of Leeds is an equal opportunity provider and employer.

Certificate of Posting.

The undersigned Clerk/Recorder does hereby certify that the above notice was posted April 4, 2022, at these public places being **Leeds Town Hall, Leeds Post Office, the Utah Public Meeting Notice website <http://pmmutah.gov> and the Town of Leeds website www.leedstown.org**



Aseneth Steed, Clerk/Recorder

Town of Leeds

Planning Commission Meeting for Wednesday, May 4, 2022

1. Call to order:

Chairman Swenson called to order the regular meeting of the Planning Commission at 7 PM on Wednesday, May 4, 2022.

ROLL CALL:

	Present	Absent
CHAIRMAN: DANNY SWENSON	<u>X</u>	_____
COMMISSIONER: ALAN ROBERTS	<u>X</u>	_____
COMMISSIONER: KEN HADLEY	_____	<u>X</u>
COMMISSIONER: TOM DARTON	_____	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	_____

Chairman Swenson said Commissioner Darton is out of the country and Commissioner Hadley has a back injury. Commissioner Rosenthal attending on Zoom.

2. Invocation: Commissioner Roberts

3. Pledge of Allegiance

4. Declaration of Abstentions or Conflicts: None

5. Agenda Consent:

Agenda adjustment: 8d will be moved to 8a

Commissioner Roberts moved to approve tonight's agenda with modification 8d. becoming 8a. second by Chairman Swenson. Motion passed in a roll call vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
CHAIRMAN: DANNY SWENSON	<u>X</u>	_____	_____	_____
COMMISSIONER: ALAN ROBERTS	<u>X</u>	_____	_____	_____
COMMISSIONER: KEN HADLEY	_____	_____	_____	<u>X</u>
COMMISSIONER: TOM DARTON	_____	_____	_____	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	_____	_____	_____

Minutes Consent:

Commissioner Roberts moved to approve Meeting Minutes of April 6, 2022.

Second by Commissioner Rosenthal. Motion Passed in a roll call vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
CHAIRMAN: DANNY SWENSON	<u>X</u>	_____	_____	_____
COMMISSIONER: ALAN ROBERTS	<u>X</u>	_____	_____	_____
COMMISSIONER: KEN HADLEY	_____	_____	_____	<u>X</u>
COMMISSIONER: TOM DARTON	_____	_____	_____	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	_____	_____	_____

- 6. Announcements:
 Dumpster Day May 20, 21, and 22, dumpsters located on Cherry Lane.
 Feel free to bring your large items and put them into dumpster. It is a great way to keep the community clean and free of some of those items that are hard for the trash pickup or large for your own truck. It is a great opportunity to take advantage of it. It is a good thing.
- 7. Public Hearings:
 - a. Ordinance 2022-03, General Plan

Commissioner Roberts made a motion to open the Public Hearing for Ordinance 2022-03 General Plan. Commissioner Rosenthal seconded the motion. Motion passed in a roll call vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
CHAIRMAN: DANNY SWENSON	<u>X</u>	---	---	---
COMMISSIONER: ALAN ROBERTS	<u>X</u>	---	---	---
COMMISSIONER: KEN HADLEY	---	---	---	<u>X</u>
COMMISSIONER: TOM DARTON	---	---	---	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	---	---	---

Sunrise Engineering LLC representative Brad Bobbins, General Plan presentation:

Brad Robbins: Mr. Chairman and the planning commission, my name is Brad Robbins. I am actually a resident of Leeds. I have been working part time for Sunrise Engineering for a few months now and I got assigned to doing the least General Plan. My background is a thirty-year municipal career in government in the state of California where I was a city manager, also funding director. It has been a pleasure working on this General Plan to try to get to this point to where the Town of Leeds can actually have a functioning General Plan. What I want to do is just take a few minutes and kind of go through what the company has done to get you to this point. Your last General Plan update was done in 2011. Now a General Plan is just what it says a general plan, general in nature. It is not specific. It is kind of your baseline land use document tying off of that is your zoning code. Your zoning code has more specifics in it such as setbacks, lot covers those types of things. So, your General Plan is very general in nature. According to the state of Utah, a General Plan is an advisory document, meaning that you do not necessarily have to follow what it says it is there to advise you as the commission and as the city council, or the town council. Having said that, though, I am sure the State would like you to follow it. That is why they have ponied up some of the money in order to pay for this General Plan itself.

Okay, late 2021. We were contacted as Sunrise Engineering and contracted by the town to go ahead and do your General Plan. We did data collection, we did a land use inventory, we did a traffic circulation analysis, and a collection of historic data. We did do a survey of the citizens as you may recall. Next slide.

We also met in front of the Planning Commission; we had a steering committee that was set up which guided us through this process to get us to where we are at today.

Actually, beginning in December of 2021, we started working in earnest on the General Plan. We are at this point in time, now you need to understand that we have a deadline of May 31 To get this finalized, according to the funding source that they paid for this General Plan. So, it is imperative that this be approved this month with any corrections if you have anything that we need to do. Next slide.

So, some major count themes that came out of the survey process and also meeting with the steering committee is that the residents who want to maintain the rural open and tronic character Leeds. They believe that it is imperative to keep the hometown feel and to control growth now and in the future.

The residents like large lots they like the agricultural aspect of the town. They do believe the town should keep up with their infrastructure requirements. They do believe that code enforcement is something that the town needs to address and address unkept properties when it is necessary.

The town residents do appreciate that recreational activities such as riding, hiking, camping, all those are valued. The environment is another highly valued aspect of living in town. Maintaining the vistas, views, clean air, night sky environment is all very, very important to the community.

Finally, community would like to have some support for the local businesses, especially restaurants. There was a little bit of talk in the survey about some services that would be nice such as a gas station. Next slide.

From those major kind of overarching land use themes, we are not getting kind of into the land use themes that deal with the land use element itself. There are two, basically. The residents want to keep a small-town rural feel.

The common goal was to preserve the rural character, the history of the town, and planning for future development activities. And secondly, in this kind of an important one, controlled development. Residents in town do not want this to become just a suburb of the St. George metropolitan area. Next slide.

So this is the General Plan map, as we developed it, this was developed in concert with the steering committee and as you can see, there are several different types of uses that are there, If you can see the yellow it kind of explains the General Plan Map a little bit, the General Plan is very, very general in nature, your zoning map is going to have specific, specific zones associated with that yellow area. The general plat map is just zero to four dwelling units per acre but within that zero to four, you can have several different zones. The thing that is also a little bit different about this general plat map is that if you have seen the black lines, which is the town boundary, we have Planned beyond the town boundary, especially up to the north. The dark green is actually BLM land. And that is proposed to be designated as open space, the lighter green is proposed to be designated as a state residential, those areas along with the blue, which are agriculture and those are also in the county right now, those are areas that potentially could be annexed by the town as time goes on.

What we have also done, it is going to accompany this application is an Annexation Policy Plan. And that will kind of address the areas not presently in the town a little bit more accurately. So that is the general plan map as we have developed with the steering committee. Next slide.

Historic Preservation is obviously very important. I met with LoAnne Barns, and we sat down to talk for a while, and I did refine a lot of the information in the plan itself. There was a whole survey that was done, I believe, is in 2009. And she was gracious enough to provide me with that survey, I made sure that it is part of the general plan, not only in the element portion, but also there is an appendix that goes through all the different structures in town that are considered to be historic.

As part of the old General Plan, there was some talk about having some sort of an overlay zone for historic resources, for whatever reason that was never developed as part of one of our recommendations is to get that developed and in place in a would generally apply to just those historic resources that are government owned. You would not exclude private ownership if they wanted to be part of that historic resource overlay, and that is something that Loanne thought was very important that the town look it as we move forward. Next slide.

So, this is the transportation map and part of the transportation element. And we did coordinate with UDOT in regard to this floorplan. Really kind of not surprisingly, there was not very much change at all. All the roads presently in town are designated certain designations such as arterioles, major arterials, those type of things they all traffic wise, fit within the allotted traffic counts for those type of roads. We did provide an appendix at the back of the General Plan that does have all the different traffic counts for like Main Street, Silver Reef Road, the two on off ramps, they all ride within the requirements for those types size road. Generally speaking, there was not any changes, so to speak, in regard to the transportation map at this point in time. Next slide.

This is the public services facilities elements. This just kind of runs through the different public facilities that are in town. The Leeds Domestic Water Association (LDWA) is the purveyor for domestic water. We identify that they exist, and we also identify that they have constraints. There is only so much water to go around. That is why I believe in Scott, and I talked about this earlier. It is 2025. The state is going to require that all towns and cities have a water element as part of their General Plan to start addressing water issues.

Wastewater, we all know this that the town of Leeds presently does not have an organized wastewater distribution system. Ash Creek Special Services District is probably the closest and that is to the south of town. There are some septic tanks in town that, I understand, are starting to fail. It is very possible that Ash Creek will be coming into town to service some portions of town and sometime in the future. Next slide.

In regard to sheriff or police that is provided by Sheriff. The Sheriff does provide police services in town and fire is provided by voluntary force and also through Hurricane Valley Fire through contract. Electricity, gas, and solid waste is all provided by quest star, Washington County, and Rocky Mountain Power.

In regard to drainage, the town has done a good job trying to fix some drainage problems over the years, but Leeds is typical of any rural town. I mean, it does not have a modern urbanized type of drainage system, but it does function properly. One of the things we did say in our comments in regard to action items is to develop some type of a five-year CIP plan to start addressing some of those issues and road issues as they occur. Next slide step.

This is the Environmental Conservation element as part of the whole surveying process, people love living here because of the environment that they live in. And it is

unique, it is beautiful, a lot of natural resources, plant animal habitat, the one thing I did identify in going to the General Plan process, and also your zoning code is that you are open space zone in your zoning code, allows uses in it, which is highly unusual. Most places that are zoned for open spaces actually open space and preserved for people and future generations. So, what we are going to do, and I have talked to the mayor about this, we've we are going to come in after this is all done and go through zoning code, and we are going to fix things in that zoning code. So, get in then matches your General Plan, and kind of correct some of these issues that are there. Next slide.

This is the Economic Development element. Any type of successful city has some type of economic development strategy going on with it. As far as the survey is concerned, people do support the existing businesses, we did add some economic development strategies in the action items in the General Plan that the town can follow if they wish to. All towns need some type of money and residential does not necessarily bring those funds in like it could. It is more or less most towns are industrial commercial, not saying that is going to be Leeds by any means, but there are strategies that we have provided in a general nature in order to address the issue.

And then finally, the last slide is the Housing element. Again, this is not one that state requires, but they are highly recommend, we went ahead and did it. It does address to a certain extent moderate income housing. The state actually provides several strategies for moderate income housing, most of them deal with larger towns and cities, but I did glean some of those off and put them into the goals and the action plan for Leeds.

This is a summary. We have 401 homes in town, 99% of buildings are single family homes. Eighty-five percent are homes that are owner occupied. There are a few strategies. And I noticed on your agenda tonight, you are talking about some internal type of rental units for homes and that is one of the strategies.

That is your General Plan. We have gone through the process. It is in compliance with the state laws and is to code. I am happy to answer any questions you may have.

Commissioner Roberts: An observation that I think needs to be made clear is the General Plan map that you have in there and any zoning map that is contained in there may not be exactly what the zoning is. It is a general representation of zoning on property, but some people will walk in on that and go whoa, why is this this way or not this way in the General Plan. Because it is a living document, the General Plan gets modified appropriately for the municipality that it serves. The same goes for the zoning map. It will be a modified document or modified map.

Brad Robbins: The General Plan map that we put together is correct.

Commissioner Roberts: Right. But you also have our zoning map included in there too.

Brad Robbins: Yes, your existing zoning. What we are going to do, the next step in this once this gets approved, we are going to fix those inconsistencies in your zoning code so that it matches your General Plan map.

Yes, your existing zoning. What we are going to do the next step in this, once this gets approved, we are going to fix those inconsistencies in your zoning code so that it matches your general plan. And we will be back before you can do that.

Commissioner Roberts: There'll be some individuals that look at that zoning map in this document and go, Wait a minute. They will look on those thinking that it is 100% correct and it is not.

Chairman Swenson: Like you said, it is a moving document. So, it is not static.

Brad Robbins: It should be. It can change. It is the guideline. Thank you.

Chairman Swenson opened up the hearing for citizen comments and questions.

Lynn Potter: I have reviewed the previous General Plan and I came in and reviewed this one. Looks great. Thank you.

Susan Savage: I have several questions. Would you like me to ask one at a time or all at once?

Scott Messel: Ask all your questions and then we will keep track and address them all.

Susan Savage: Is open space perpetual? That is what I wondered because, in our family, we are looking at the concept of conservation easements, and I wondered how they may differ?

I wanted a little more explanation in the historic overlay. Brad was mentioning that that would apply mainly to government areas, but it could apply to others. I wondered what that means that it could apply to others?

About the housing: I know what has been said in the past about our obligation when we begin to have an obligation for low-income housing. I wonder how that works into things.

About water: There was some language about a required water element. And I wondered if that different from what we have? Sounded like it might be new.

About zoning: It is interesting that with some of our own property, we found that people kind of said, how do it get zoned that way? When we thought, we might want to rezone. It did not make sense. It was extremely expensive to do that, so, we did not. We did not have input into how it was zoned in the beginning, somebody decided that. If we wanted to change it up, we could not afford it. How do people handle that?

Scott Messel: The open space zone: zoning is never permanent; it can always be amended, or a request can be submitted to amend a zone. Open space is a holding zone. If it is set up as open space zone it does not allow anything other than open space and AG, then it holds them in that classification until the jurisdiction feels that it is appropriate to have anything other than that. It is not as permanent as a conservation easement or some of those other tools in place for perpetual preservation.

Historic overlay: an overlay zone is just a mechanism, whether it is historic or any other type of land use it is a way to put an extra layer of requirements or standards on top of the base zone.

Susan Savage: What would that look like.

Scott Messel: That's something that we could totally talk about, and we can go into more detail about it, but the ordinance is not written yet. There will be a public hearing and discussion around that if we move forward with it. It could be, that the town decides that they want to protect historic, and you could have it where homeowner apply for a historic home, and they want to have special protection or requirements over their home, the town could set specific guidelines for that area to have a historic zone. Or it could be something that is put on parks in different open space, or amenities like museum or just other historic sites, as it was talked about it is public. There is some legality of that, as far if it is public lands, the BLM's. If the town goes to BLM, tells them that they are putting a historic overlay over the BLM land. They may or may not be too willing. I do not want to speak for them but there would have to be discussion and maybe negotiations. That if we are looking at putting overlays in different areas that are publicly owned.

Susan Savage: So, the town would need to establish an ordinance.

Scott Messel: Yes, the General Plan is just a long-range recommending document. In some areas, in some states the General Plan is like, you know, the gospel. It is mandatory that you follow it to the very letter. If something does not follow the General Plan you either have to make changes to what you're proposing, or you make an amendment to the General Plan. But in Utah, what Utah legislators have said is that the General Plan is a recommending document, but the jurisdiction may adopt an ordinance mandating compliance to the General Plan. It is up to the local community. As you can see on the map that Brad showed, it did not go parcel by parcel and pick out, hey, we are going to rezone Susan's parcel to commercial. It was just saying this area right here was not parcel specific. Some towns, even St. George as an example, have a lot more specific breakdowns of different classifications. They will have not just Commercial, but it will be Retail Commercial, or they have some areas that are called out that allow for Drive ups, on fast food restaurants and others. You will see, if you follow St. George's city council and Planning Commission, you will see a lot of proposed General Plan amendments, because developers are always coming in trying to change the General Plan on the property to what works for them at the time.

Susan Savage: I do not know what my question is. I was just saying that zones are established and what made my question is, who decides that? We are in the process of talking about it some. I am saying that in our family, we had looked at a piece of property and said, wow, how can it be zoned this way? When do we want to rezone it, we could not afford to? Although we did not have any input into that decision, we were stuck with it.

Scott Messel: Now I know what you are asking. So, I do not know what happened in the past, but I can tell you with codes and state laws moving forward the jurisdiction cannot rezone your property without your consent on it. We cannot come in and rezone your property to Highway Commercial and tell you that you cannot farm anymore you have to get Flying J. It needs to be worked out. In the past I do not know if there were errors made or if processes were not followed properly. I do not know. But codes also change all the time. The general plan, it is just zooming out from a zoning level down here that is parcel by parcel; zooming out a little bit until with the General Plans you can see what is possibly happening in this area in the future. It is moving around bubbles. What do we want to be when we grow up? Maybe there needs to be some adjustment to what state code allows it. You just have arbitrary lines in this area that this is our general area where we see more Ag stay in place but over here, we could see it developing into Residential. It does not mean that where the line is drawn on that map that we need to have a legal description to see where that line is. It is just a general feel. If you have a piece of property that is right adjacent to where that line is, you could still come in and say, look, in this general area, it was shown that it could be Residential. I am requesting to rezone my property to residential. I do not know if I answered your question.

Susan Savage: So, people could just ask that and not have to pay the millions of bucks.

Scott Messel : Well, I do not know who you are paying millions of bucks to, or how much the town charges for the zone change application.

Brad Robbins: Its usually when you are going up in zoning. If you are going from like Residential or Open Space, into Commercial and all those things, is that the direction about which you are talking?

Susan Savage: I am not suggesting specific direction. I just remember that it got zoned for small lots and we were agricultural. We were thinking wow, and there was also a commercial overlay that at that time, we did not want on there and did not know how it got there.

Commissioner Roberts: Well, let us that would not be an uncommon thing for a general plan to have in there. And then as that general plan is, that living document that I'm talking about, as a municipality, continues to grow or change; we are just going to assume growth, they look at it, and they say, yeah, that probably wasn't a good area for that specific land use or we want to modify our General Plan to move more to this direction for a number of reasons. Those number of reasons could be for traffic to handle whatever suspected use. Maybe it was going to be a higher commercial use and just go geographically. It cannot sustain that. It is not something that a town would want to move forward on that because it would be detrimental overall to the town, I just use that as an example. The other thing that you have to be aware of in the past, all properties that came in and an annexation may have remained the zoning that it was when it was unincorporated. Individuals that are pushing for the annexation, may have their own specific zone that they would like it to come into. Now, it is required that those properties will come in with a zone and that zone is going to be determined by the municipality. But

in the past, that was not always the case, they would just come in as is. This was open space, and then they bring it in as open space. So, there is some things in the past that may have contributed to what a zone is now. You could say, well, I did not have any say in what that was. That happens in an annexation in years past. That should never happen in an annexation nowadays, zones should be specifically described when they are annexed to municipalities. What the zoning map shows for zones, which is what is established by the municipality.

Scott Messel: Both the General Plan and your zoning map are fluid, and your zoning ordinances are all living documents. Just using example, kind of like Allen was saying, you may have an area where it was perceived that this would always be agricultural. Well, let us just say UDOT comes in and puts in the new interchange. Maybe what was zoned Commercial in the past had no access to it and it might have seen really weird to think about commercial there but now that the interchange is going in there the town wants to readdress and I am sure the property owner would be involved in that. The town's not going to rezone. on agricultural land to commercial without the involvement of the property owner. No one wants their head beaten in that bad, I do not think. The general plan is just a guiding document.

Rex Heaton: what Susan's question is, is she has agricultural property, if she wants to change it, the fee for applying for that change is 1000s of dollars. I personally do not understand where that money is going. And it seems to me that you are trying to prevent people from making changes to the zoning on their own property. I mean, the fees for that are just prohibited for people and it just seems punitive to want to try to change things. Is that what you are asking?

Susan Savage: I do not know if that is the direction we are going.

Scott Messel: That's not really a part of this discussion. Cities are audited and finances have to be proven and have to be transparent. You cannot arbitrarily pick a number for how much it costs to do a zone change or any other application. I am not finance person here. But I imagine that the money goes into the general fund We are able to turn the lights on in here after we had our PowerPoint because of some of the fees. There is the cost of reviewing the plans and all of that.

Chairman Swenson: Susan made a comment that in years past a parcel was zoned a specific zone that maybe did not match what it should be zoned today. Whatever the reason they did that, and whomever did that before, nobody knows exactly why. Maybe it is not consistent with the rest of the street or an area. It seems appropriate to consider that change. Maybe the town, which would have to go through the process would consider a different fee structure. That is kind of what you are saying?

Commissioner Roberts: Well, she is asking, all applicants are going to be treated the same in Leeds, you want to zone change, you are going to put forth a zone application. That is just the way it is.

Chairman Swenson: Why it was zoned that way back then? It is a valid question but to go back with an old fee structure is not necessarily appropriate within the government agency. You may have some valid reasons to change it because of this zone way back when.

Scott Messel: that is something that could be discussed at another time, my recommendation is that we stay focused on the General Plan at this point. That is what this public hearing is open for right now. Other issues could be addressed it Call to the public and town council meetings or meeting with elected officials and staff later.

Susan Savage: I may have kind of veered from that. I would make a comment that I was just talking to Brad about where we did not annex our property years ago, because we wanted an agricultural protection area that was not available in incorporated and was only available on the county. So, we are glad that the general plan proposes adopting that incorporating that if it if it is annexed into the town, and then I just wanted to comment that it was mentioned to us that Utah State is doing some special agricultural things. I was reading up on this some of what. They have received a donation, a bastion donation, for \$40 million, or something like that to help with, I do not know what it is exactly, Agricultural and water and things. Some of us were talking about this a little bit and may approach the town of the study a little bit more. I just wanted to comment that historically back in Maybe the 1800s, Charles Cottam came to Leeds and planted the pistachio trees that are here. He was experimenting with things. And at some point, Leeds was designated as the community with the longest growing season in the state. The area around Oak Grove, where these three geological units come together here has the widest variety of vegetation plant life of any place in the state. So, we do have a really unique area here and I do not know what that means for us. But we would like to kind of look into that and see what Utah State is doing what they are interested in helping with and so we might come back to the town at some point.

Chairman Swenson: Thank you for that information

Angela Rohr said thank you to Brad for the presentation and also for your previous service on our planning commission. She asked about Silver Reef Road.

Brad Robbins: Silver Reef Road is a minor arterial; it is from 1,500 to 6,000 average trips per day. Right now, it is like 1700 to 2000 a day. According to its classification, still within the realm of usability.

Angela Rohr: The agricultural aspect was mentioned right off the bat for what people want, what they like about being here. And we need to do everything we can to maintain that atmosphere. And also, parks, we only have really one park where we are getting a lot more homes. I mean, we have increased 300 to 400 I think parks and other park needs to be considered. There is the so called big four-acre park or Silver Reef Park. Nothing has really done up there. And it is mostly just a place for people to park and eat a sandwich. And, Scott, I appreciate you saying about open space is not permanent

because at a previous meeting, there was a lot of discussion about maybe open space cannot be really rezoned. Thank you. On the aspect of zoning changes, Leeds probably felt the city town in the county that has something like rural residential and the rural residential means basically that you can have animals and you can do a vineyard or do some farming. But a lot of our real residential is like a quarter acre. Those are pretty small lots for animals. And I think that the animal situation could be taken out of the zoning with a different type of administration of how to deal with what. There is a lot of people that bought homes that only found out much later that they were not allowed to have any animals except their pets. And that they were in residential instead of rural residential, and they have, you know, one acre five acre lots.

Chairman Swenson: Angela, in relationship to that rural and residential that has been discussed at numerous of these planning meetings and that is an issue. Just so that, you know, that is, that is addressed often. Very valid.

Ralph Rohr: I actually have a copy of the General Plan, which I'm going through it's nice, nice work. I was able to read it and follow it pretty well, I think. I just highlighted a few areas was questions specifically. On page four, under the major town, general plan, and themes of number three infrastructure. Keeping up with infrastructure needs or requirements such as water, and an X rays gave me pause, possibly sewer. I am not sure that that came from the questionnaires that the people of the town filled out. I am just wondering where it came from, because history that I recall that as this came up in the past, as sewers were proposed, to satisfy developers, and that requirement was going to be imposed on everyone else that leads into the location or septic systems are extremely well. So, I am wondering, What's the origin of possibly sewer? And how serious is that?

Ralph Rohr: I would think people with failing septic tanks were going to repair.

Brad Robbins: it is a deeper issue than that. I think it is more than water quality. The infiltration of the septic into the water. That is the problem. It is not so much the tanks themselves.

Ralph Rohr: Okay. What would be the average cost of one of these homes to take care of people with moderate or low incomes?

Scott Messel: There's a lot of different types of housing that fits into attainable, affordable, and moderate income. Housing. It could be townhomes could be some it could be government subsidy of some type helping to build single family dwellings I had a neighbor that is it is almost like a co-op where a group of them come together and build each other's homes. And that help they do the sweat equity on it makes it more affordable to it. We are not talking about the I do not think anyone envisions that we are talking about the projects in Detroit or the projects that said government housing that was done in the mid-century.

Anybody who has property or land and wants to develop it or allow it to be sold for housing and so forth, is probably not going to accept government offers that could be built into the

housing. So counter housing and to enforce this my Fiat directories have legislation blocking entities and individuals rather than they are getting increasingly demanding that we do those sorts of things is going to really be a bind on them. It is unfortunate that we live in where we have more charitable to one another. And I think these cooperative building programs I have read about them, they do work. But if this becomes a government mandate, we will not be happy in this community. As long as what is good for the developer is not imposed upon. All citizens have community which will be onerous in my opinion. The other thing, I happen to live with a low end of my street. And if they put a sewer in my street, every time the electricity went out, everybody's sewage backup in my house. And that would not be a real nice thing. With this issue came up in town council, I mentioned the example of Seattle where the electricity failed, they had hundreds of 1000s of sewage just dumped into the streets. This was several years ago. My final comment is about water conservation. I visited with a friend who is lived up in Veyo for a couple of generations of family now. And I asked him about water up there. Every water tap in Veyo is owned by someone. And if you want to put up put in a development on your house or anything, you have to buy a water tank from someone. And I think it has it drive into Washington, St. George, and I look at the enormous proliferation of multi-unit housing. And I keep asking myself, where is the water going to come from? Las Vegas is down there past their second intake; they got a picture of St. George news. And we are holding back 500,000 gallons, or acres or whatever it is on Lake Powell just so we can keep the hydroelectric. Okay. So, I think in general plan and whenever transactions take place, we should look at limiting water taps, not just let somebody come in and say well build one hundred homes over here and you got to give me water. That of course, I have to work through the water company to thank you for your time when explanations.

Daryl Lewis: Just two quick comments. One, you know, when I moved here, six years ago, the general plan was the number one issue was planning. And nothing has really happened until now. And from my perspective, this is just the beginning. But it is a very good beginning. And thank you very much. Second comment. As we go forward. I had a conversation yesterday with somebody about the general plan. And somehow in the course of the conversation, community gardens came up. And we first started just kind of laughing and kicking around. And then it morphed into a community ranch. And then it morphed into a petting zoo, and then it morphed into a park. And if something like that could be incorporated into our General Plan, whether we get developers to contribute land, and whether it is a facility run by the city, and might be something that could work really, really well and a lot of people could take advantage of it to have their animals housed in the ranch of the city when it's not possible to put it on there. But anyway, just a thought.

Chairman Swenson: We did have we did it when I first moved up there, there was a community garden. I am not sure where it was, I did not take advantage of it.

Ralph Rohr: Yeah, we had a community garden lasted four years. We actually had a water supply there inside of a little shed was provided by the irrigation company, and David Stirling came and plowed the property for us each year so that we could do planning. And everybody had a certain row or number of spaces. We did that but what

happened was people, once the weeds started coming, people began to fall off on that. I think it is a great idea now.

Commissioner Roberts made a motion to close the public hearing for Ordinance 2022-03, General Plan. Commissioner Rosenthal seconded the motion.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
CHAIRMAN: DANNY SWENSON	<u>X</u>	—	—	—
COMMISSIONER: ALAN ROBERTS	<u>X</u>	—	—	—
COMMISSIONER: KEN HADLEY	—	—	—	<u>X</u>
COMMISSIONER: TOM DARTON	—	—	—	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	—	—	—

b. Ordinance 2022-04, Annexation Policy Plan

Brad Robbins of Sunrise Engineering LLC: This will be a pretty quick presentation. What I want to do is talking about the Annexation Policy Plan for the Town of Leeds. State law does require that the town have an Annexation Policy Plan in place and an annexation map if a tenant wants to annex property. In discussion with the mayor a few months ago and the steering committee I thought it best that we go ahead and develop an Annexation Policy Plan for the town of Leeds, which we have done. State law was pretty general when it comes to this. What we have done, and at the suggestion of the town attorney. We are you just taking a high-level view of the annexation situation in the town of Leeds. The plan itself talks about the petition process and requirements, noticing for Planning Commission and the town council, review process and zoning requirements. The map itself is really the most important. That is why I have it on the screen here. If you look at the map the areas that could potentially be annexed are all crosshatched. They are exactly the same designations as we showed in the General Plan map itself, mostly the areas to the north. And then there is a small area down in the south, which is designated as agriculture. This plan, if the town ever does want to annex property, they now have the legal authority according to the state to do so. And that concludes my presentation.

Commissioner Roberts made a motion to open the public hearing for Ordinance 2022-04, Annexation Policy Plan. Commissioner Rosenthal seconded the motion.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
CHAIRMAN: DANNY SWENSON	<u>X</u>	—	—	—
COMMISSIONER: ALAN ROBERTS	<u>X</u>	—	—	—
COMMISSIONER: KEN HADLEY	—	—	—	<u>X</u>
COMMISSIONER: TOM DARTON	—	—	—	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	—	—	—

Daryl Lewis: The area that you were talking about, generally for annexation is to the north and to the south. Nothing east, nothing West? That is correct. What about is there a plan in place to negotiate with BLM, on annexing some of their land?

Brad Robbins: All this does is set forth the ability to do so. We are not doing any application to anything right now, that would have to come later on with the town council and through the current condition, this just allows the town to do proceed.

Chairman Swenson: It is setting up the authority. It opens the door legally.

Bill Hoster: On this, a couple of things have kind of changed since our dialogue. That area that is to the west, Hidden Valley, will also be attached, Mark. Just so you know that that area is being considered as well.

Susan Savage, so stop me if my questions out of the scope of what we are talking about. In the annexation process do those pieces need to be...Do the owners need to apply for annexation? Aside from BLM? Can the town reach out and do that? And supposing that an annexation proposal comes in and within that proposed area there is a place, a piece of property that the owners do not want to be annexed. Would that be an island?

Scott Messel: State code is very complicated as far as annexation, but it is very specific on the several different ways in which an annexation can happen. One is the property owner is requesting to rezone some property, or maybe a group of them but not everyone in the group wants to and there's formulas and percentages to consider and there is a process to public hearings, notices to people of a protest period. There is also a process in place where a jurisdiction if they wanted to initiate it, there's a process in place for that too.

Susan Savage: Can it be initiated by the landowners, or can it be initiated by the municipality?

Scott Messel: either way.

Commissioner Roberts: Yes. But, let me add this. As a general statement, landowners initiate. That is a much better position for municipalities. municipalities have the ability to, but it is better if the landowner's initiate annexations. And also, one other clarification, Susan, it is possible for areas to be brought in under an annexation. As Scott mentioned, there's formulas for this. There are properties that may not want to be annexed that could be drawn in on an annexation. When it comes to public lands, that's generally fairly easy to do on public lands, but on private lands, there's some people that may not want it but if it triggers the criteria and the legislative body approves it, there are some private properties that could be pulled in with an annexation that they didn't want to be part of.

Annexations cannot cause islands and peninsulas. There is a fair amount that the state has regulated on, this is what you have to trigger in order to draw in other properties.

Angela Rohr: Section Two, "annexation decisions are typically irreversible and permanent." So that means that there is not some wiggle room at stake.

Brad Robbins: Yes, there have been cases in the past where areas have DE annexed. It is rare.

Angela Rohr: In the same paragraph "annexation should be agreeable and advantageous as possible to applicable, affected entities." Alan was kind of discussing that a little bit, because when I look at the map on here and see what is most likely to be annexed, would be the west where it is a real Peninsula, right below the pink. That is, that is basically the Silver Reef. People owning that land, are probably not going to be really happy about being annexed.

Scott Messel: It does not mean that they will be annexed. It is just if they want to, they could. Yes.

Angela Rohr: The first phase, the applicant submits. But that does not mean that there can be condemnation, I think is the term that the town might want to annex. Doesn't the town need to be the owner?

Brad Robbins: No.

Scott Messel: No, it can be. It can be a jurisdiction, or it could be a group of owners. The applicant can be the city or town.

Angela Rohr: And then part three, purpose and introduction. It says, Open communication between town and other towns or cities, particularly the county is a priority in the process of developing an annexation policy plan. We are looking at that kind of situation right now. And we have had not really open communication, it's been kind of closed down on this? So, this is our plan, not the States. It will be nice.

Brad Robbins: What you basically have here is state code quoted and put into this document and adopted by Leeds.

Angela Rohr: Toquerville would have the same kind of paragraphing?

Brad Robbins: Yes, it is state code, talks about it.

Angela Rohr: That same section three mentions there was a total of 2143 acres on the map for possible annexation. And then it says 417 acres Peninsula, west of Interstate 15, and I was just wondering if that is that the turquoise area? It says West westerly of interstate 15. And then fifty-three acres along the town's westerly boundary, and I'm

assuming that that's that a trunk that's green, that you pointed out the minute ago for me, was a team. And then a red flag 1600 acres in the northerly area, and I am assuming that that is the BLM.

Brad Robbins: Correct.

Susan Savage: When land is annexed into the community It comes in under the town ordinances. right? I am wondering if the large pieces like the BLM land, and the quite extensive pieces that have a lot of different kinds of terrain in it. If there is the option to vary that at all, for example, I am thinking about, we cannot hunt in city limits. Right?

Commissioner Roberts: I do not think you want me to answer that, Susan.

Susan Savage: You know, that is another reason we have not annexed. We want an agricultural protection area that that our area, which is that blue area. Part, most of that is ours. And it is quite a big piece, I guess, it has been a neat place for kids to be able to go on to different things. That would not make any sense and would not be safe if you were downtown, it would not be so. So, when the Sullivan land is annexed in does that mean those pieces have to be the same as if you lived on Main Street?

Scott Messel: All that can be determined by zoning. It is something that would need to be looked at the time it came in for annexation.

Susan Savage: Okay, it could be locked down. I know that we have had annexations developments considered who wanted to change things. And we wanted them to follow the city ordinances.

Bill Hoster: your question is you should have bifurcation there. So, zoning versus ordinances are two different things. And on the zoning that would be something that is conditional on the ordinances that is not conditional. It would be you would be a part of the town's ordinances, which would everybody in the town has to abide by those ordinances until they get either erased or modified.

Susan Savage: So, my question is what falls under what?

Mayor Hoster: Anything that is within the town has to be under the ordinance to the town.

Scott Messel: But it is all a time annexation all that can be talked about that time of annexation.

Susan Savage: So, if you did want certain restrictions, that were part of the ordinances you would not annex.

Multiple response: Correct.

Ralph Rohr: Regarding the General Plan and I am sorry, I forgot it was mentioned somewhere in their town of Leeds has no library. Well actually, we do have a library now is run by a couple of by the name of Tina and Wade Henricksen. It is called the Leeds free entertainment library, got phone number, text number and email. And they have got quite a selection not only books but DVDs and things like that. Got a few other cards here are nice folks. They make pickups and deliveries. She grew up in this area the idea of trying to minister shutdowns and other people need some entertainment. So, here is the cards I'll leave over here on the table.

Commissioner Rosenthal asked why Hidden valley area appears to be excluded from the annexation map. Scott Messel verified it was included and would reflect on the updated map.

Commissioner Roberts made a motion to close the public hearing for Ordinance 2022-04, Annexation Policy Plan. Commissioner Rosenthal seconded. The motion passed in a roll call vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
CHAIRMAN: DANNY SWENSON	<u>X</u>	—	—	—
COMMISSIONER: ALAN ROBERTS	<u>X</u>	—	—	—
COMMISSIONER: KEN HADLEY	—	—	—	<u>X</u>
COMMISSIONER: TOM DARTON	—	—	—	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	—	—	—

c. Resolution 2022-02, Adopt Modified State Code 10-9A-530, Internal Accessory Units

Scott Messel: The state has adopted code that requires or mandates the internal accessory dwellings are a permitted use in any zone that a single-family residential home can be permitted. There are some caveats in there, if someone lives in a mobile home or manufactured home, you cannot split that up into multiple units. The internal accessory dwelling cannot be rented for less than 30 days. So, it cannot be short term rented, but it can be long term rented, the jurisdiction can put requirements in place that if it is rented the home has to be owner occupied, one of the units would have to be owner occupied. So, it could, a widow has a bigger house. There is the internal accessory dwelling she wants to live in and rent out the other space to help her afford her home or it could be family that is wanting to help make ends meet, so they rent out their internal accessory dwelling. Eventually when we make the zoning code changes, we will include all of the latest requirements and updates the state passes down to us. But a good way is what is before you tonight. Adopt a resolution just stating so that it is clear moving forward that the town adopts and will follow the requirements of the state. That is the gist of it.

Chairman Swenson: We can be less Strick, but we cannot do more than their code?

Scott Messel: Correct. Okay, so if someone came in for a building permit for an internal accessory dwelling unit or let us say that someone already had one in their home but there was a complaint that someone was renting out a portion of their home that was

classified as an internal accessory dwelling unit. The town would follow state code on that.

Commissioner Roberts: It does not change the footprint of the existing residence. It cannot change the footprint. Under this code we are adopting through this Resolution. It goes a different direction if you want to change that footprint.

Commissioner Roberts moved to open the Public Hearing for Resolution 2022-02, Adopt modified State code 10-9A-530. Commissioner Rosenthal seconded the motion. Motion passed in a roll call vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
CHAIRMAN: DANNY SWENSON	<u>X</u>	—	—	—
COMMISSIONER: ALAN ROBERTS	<u>X</u>	—	—	—
COMMISSIONER: KEN HADLEY	—	—	—	<u>X</u>
COMMISSIONER: TOM DARTON	—	—	—	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	—	—	—

Ralph Rohr: The question I have on that is, what impact will this have on vacation rentals by owner? And someone say, well, I am renting out this internal part of my house, and they have to be there. And then someone comes around, I just perceive there may be some misunderstanding on VRBO

Chairman Swenson: Well, it cannot be less than 30 days.

Scott Messel: The way that it is worded is it cannot be rented less than 30 days. And so short-term rentals are usually less than 30 days in what is classified as long-term rental is thirty plus days.

Commissioner Roberts moved to close the Public Hearing for Resolution 2022-02, Adopt modified State code 10-9A-530. Commissioner Rosenthal seconded the motion. Motion passed in a roll call vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
CHAIRMAN: DANNY SWENSON	<u>X</u>	—	—	—
COMMISSIONER: ALAN ROBERTS	<u>X</u>	—	—	—
COMMISSIONER: KEN HADLEY	—	—	—	<u>X</u>
COMMISSIONER: TOM DARTON	—	—	—	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	—	—	—

d. Addendum to Chapter 9, Performance and Standards for Hazardous and Other Uses

Chairman Swenson: I noticed that just a little update, we discussed that in the last meeting with my background of firefighter training California and doing burn training. Mark

and I met this past month and I discussed requirements that California had with a AQMD, Air Quality Management District on asbestos mitigation, lead based paints, prior to burning or destruction of properties that are going to be torn down which we can see this town could possibly pull down some of those older residents and remodel and whatnot and guaranteed that many of them will have asbestos and lead base paint as old as they are. The requirements that we had was that had to be a licensed contractor, had to be inspected by a licensed member, and mitigated. Mark did some research, which was kind of exciting to me in that Washington and St. George has the same requirement. Or very, very similar they made maybe parts per million are a little bit different but same procedure have to go through the mitigators have to go through a licensing with the state or the county. Things needed mitigated and removed prior to tractors coming in and creating dust that is going to blow over the neighbors and so on so forth. So, it was kind of exciting to see that that same concern is there, and the requirements are there. That is where he is coming from with the addition to processing the licensing the application to be able to remove structures that might be hazardous to the dust environment. So, Mark, which was a good job. And there was some good information. I have one question. You stated it, you stated it in the process. It is there, the county knows, Southern Utah knows. How do we make sure when somebody wants to do the process that it is in the permit process? I do not think that stated. It states that there is a permit process and so on. But if somebody comes into our town and wants to, to remove a piece of property that might have that how do they know that they have to go through this mitigation pricing licensing process?

Commissioner Rosenthal: The permit application is part of the refer to as the building permit package. Oftentimes a package will have permit applications and information that is not specific to the project that the individual is going to be working on. So therefore, we do not have to file that or apply for that permit. You know, the way I see this unfolding is that our package building permit applications will grow. And this will be one of the permit applications in that process.

Chairman Swenson: Yes, within that package that was online there, you could see the application and, and the contacts to be made. I just wanted to make sure there was a connection, that it would not get lost in the shuffle.

Chairman Swenson: Very good. Okay, we will do that. This has really evolved from something that was very basic, with complaints of just construction vehicles on a dirt road promoting dust, you know, just common dust to the point where it's much more hazardous than that. Perceiving the future, as we discussed, this, Mark spent a lot of research on that portion because there is a lot of dirt roads here. And trying to mitigate that hazard to the neighbors during construction phase. Then as we looked at this town quite old, guaranteed there's tons of asbestos in these structures, and tons of lead-based paint that as people want to move in with the cost of things getting more and more expensive to remodel tearing down roofs and walls and whatnot, it's going to affect the neighbors and wherever the prevailing wind goes. It has developed into really a very good direction more than I think the older individual's community that have been here years and years have been concerned over but very valid in my mind. So very good. Mark, thank you then if

you do not have anything else to add, we are going to open it up to our I submit to you for proposal open it up for public comments.

Commissioner Rosenthal made at motion to open the Public Hearing for Addendum to Chapter 9, Performance and Standards for Hazardous and Other Uses. Commissioner Roberts seconded the motion.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
CHAIRMAN: DANNY SWENSON	<u>X</u>	---	---	---
COMMISSIONER: ALAN ROBERTS	<u>X</u>	---	---	---
COMMISSIONER: KEN HADLEY	---	---	---	<u>X</u>
COMMISSIONER: TOM DARTON	---	---	---	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	---	---	---

Chairman Swenson: We're opened to public comment if any. Okay, other than it is just a good idea. It looks like everybody is satisfied with what has been presented. Motion to close public hearing.

Commissioner Roberts motioned to close the Public Hearing for Addendum to Chapter 9, Performance and Standards for Hazardous and Other Uses. Commissioner Rosenthal seconded the motion. Motion passed in a roll call vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
CHAIRMAN: DANNY SWENSON	<u>X</u>	---	---	---
COMMISSIONER: ALAN ROBERTS	<u>X</u>	---	---	---
COMMISSIONER: KEN HADLEY	---	---	---	<u>X</u>
COMMISSIONER: TOM DARTON	---	---	---	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	---	---	---

8. Action Items:

Discussion Possible Action Regarding Potter Property, 11.94 Acres
Lynn Potter PowerPoint Presentation.

Commissioner Rosenthal: Thank you for the presentation. This is a question to Danny and possibly Scott to weigh in on. Has the town attorney reviewed this visitation documentation?

Commissioner Rosenthal: Thank you for the presentation. This is a question to Danny and possibly Scott to weigh in on. Has the town attorney reviewed this documentation?

Lynn Potter: I can answer that. He has not because we haven't given it to them yet. This is the first step, and we are dropping off the stick. And I imagined you will be going over here in the next week before the town council meeting which I hope we will be at the town council meeting next Wednesday. Please.

Commissioner Roberts: No not this presentation, Mark. The applicant has been before the town, and it went through an ombudsman review. I am not going to make any assumptions. Let us have some dialogue here. Alberta paces first subdivision was five parcels, five lots.

Lynn Potter: In reference to our property?

Commissioner Roberts: My argument is going to be your property is a remainder of that five-lot subdivision that she petitioned for, that originally had a remainder of ten acres. And then they made an adjustment on that easterly line. On her other adjacent property that caused your property become the 12-acre parcel that it is now. Is that a fair statement or not?

Lynn Potter: It is not. Our property. To define this better, you would go to page seven. In June of ninety-six, before this map on page seven was made. If you look really closely, there's parcel labeled on Main Street, parcel B, parcel A parcel C. In June, she went through a minor subdivision and the remainder was everything in pink. And that was discussed with the ombudsman. And so that is verified and that's all understood by him as for question about the remainder. So, in this parcel is probably closer to twenty acres because ours was 12. And this little one to the left is like another eight acres. The line down the middle was not a division in the property at this time. But this is the map that was created by Mr. Pope to define where they wanted to split the property off. So, the remainder at the time after the ninety-six minor subdivision of those small three lots is everything in pink. That is the remainder. And then once ours was subdivided off in the spring of ninety-seven, the remainder becomes what is on the left side of that line in pink, and what eventually then becomes that next subdivision.

Chairman Swenson: This is the first time you've kind of presented any of this to us.

Lynn Potter: Yes, it is new stuff.

Chairman Swenson: well, new, old you have been working on something for a long time, because I am unfamiliar with basically exactly what is going on here. Because you have been working on this with Town Council. Specifically, what are you trying to accomplish?

Lynn Potter: We're trying to establish the date when the property was subdivided. Okay. The town says that it wasn't subdivided in ninety-seven because of a lack of records, which the ombudsman rebuked them for using as an excuse not to go with us on this. That is a bad precedent, because then all the towns are going to start having bad records.

Chairman Swenson: I have question about that.

Commissioner Roberts: Overall. What does the applicant want? Yes. Maybe your legal counsel might answer that better.

Chairman Swenson: I mean, you are trying to capture an easement? Prove the Hillside Ordinance does not apply to you. Exactly what is it you want to accomplish?

Scott Garrett: Counsel for the Potters. What they are after, they would like for the Commission, the Planning Commission, to determine that their property was legally subdivided prior to 1989 or back in 1997. When it happened, the effect of that is the property would not be subjected to the hillside ordinance.

Chairman Swenson: That's really what we are after.

Scott Garrett: That is the bottom line.

Chairman Swenson: Doesn't fall within the Hillside Ordinance of today or of then for you because you purchased it when? When did you purchase it?

Lynn Potter: 2017

Chairman Swenson: And so, you are saying that it does not apply to the Hillside Ordinance?

Scott Garrett: The finding that we are asking you to make is that this property was legally subdivided prior to 1999. Okay?

Chairman Swenson: Yes.

Scott Garrett: Mr. Roberts is correct. This has been an issue that has been going on. This is not new to the town, maybe your kind of new but it has been bantered and bounced around and talked about and even analyzed legally. So, the issue was actually formally sent to the property rights Ombudsman for an opinion from him. And both, both sides had a chance to present their arguments to the ombudsman. Both sides sent documentation to the ombudsman to consider and trying to persuade them as to their respective positions. The Ombudsman issued an opinion, a written opinion, and I doubt the town has had that. I don't know if you've had the chance to see that or not. But it was issued, and I, you know, I can explain, basically what they found. That the standard that they're looking for is substantial evidence on the record to support your decision. Otherwise, your decision can be arbitrary and capricious, or it can be illegal. And the ombudsman did find that a portion of your legal ruling could be, or your analysis could be illegal, because any parcel divided, even if it's one parcel divided out can still be a subdivision. And so, the town's analysis with the need to be multiple lots, which was found to be an error, one lot satisfies the requirement for a subdivision. So basically, what the ombudsman came down to he said, the question, really the issue that we have that we're trying to decide is whether or not this was subdivided prior to 1989. And the ombudsman found there was substantial evidence both ways. There was substantial evidence in support of Potter's position. And there was substantial evidence in support of the town's position.

Chairman Swenson: Well, for one, it was not recorded.

Scott Garrett: The subdivision? The lot was recorded, right. I mean, the deed that passed the property was recorded and the lot was given a number, an ID, a parcel number. And the taxes have been paid on that lot ever since then. Right. I mean, I think we can all agree on that. Let me point out some of the language in the Ombudsman's opinion I think is relevant. The Ombudsman concluded that, and I quote, " In light of this, it is reasonably established that not all official actions of the town have been reflected in the recorded minutes. So, the minutes were deficient. Provisions there in restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner. Because approved developments or subdivisions is not limited to subdivision screening two or more lots, but instead also includes single lot subdivisions divided from a larger parcel, the Town's conclusion involves incorrect interpretation of its ordinance." That's why that argument was basically wiped out by that. Next "under either party's contention, the Town's official minutes are either missing records of a prior town council approval decision, or else a prior planning commission approval decision, respectively. Our reading of the record is that the conditional approval of the proposed 12-acre parcel was likely given by the town council during the February 26, 1997, meeting. At the same time, it approved a rezone for that very parcel. Considering that the records suggest that the conditional approval may have been an undocumented decision of the town council at the February 26 1997 meeting, it could likewise be reasonable to infer the subsequent recording of the quitclaim deed and recording of the metes and bounds survey map with the county record to a similar contention that the town council gave its final approval of them at the March 12 1997 meeting, where in the town council discussed the state of the condition was being fulfilled. It can be reasonably inferred that the 11.92-acre parcel owned by Mr. Potter constitutes the same parcel proposed by Alberta for lot approval as a single lot subdivision for purposes of a sale, as reflected in the town's official minute entries. Admittedly, under the same standard, there likewise appears to be substantial evidence to support a conclusion that a formal subdivision with approval did occur. It would be incumbent upon the Potters since the party asserting the deficiency in the record to conclusively established through the other forms of relevant evidence that the approval was in fact given." So, you know, you can see that the standard that the Ombudsman is analyzing this under is substantial evidence on the record? And they determined that even though you could find both ways, that would be a sufficient, sufficient to find substantial evidence on the record in support of your decision saying it wasn't an approved subdivision. But it's kind of a tie. I mean, it's kind of a you know, both parties, make points. It can be, it can be construed in both party's favor. Because of that and because the, you know, conditions upon the land are to be resolved in favor the landowner and favor their rights. We want the planning commission to consider that, especially in light of Mary Kay Lisonbee's affidavit where she was a town council member, and has now come and said, Yeah, I remember, I've reviewed the minutes I've got out to the property. I remember going through this. I want to read exactly what she says. She says in paragraph six, "The council approve the property division minor subdivision subject to Alberta, obtaining a quitclaim deed for an access road to the 12 acres that will be sold. The deed was to be titled to the Town of Leeds. No further action by the town was anticipated or required to complete the minor lot subdivision. Once the deed was recorded. It was the intent of the council that the 12 acres parcel would be

a minor lot subdivision eligible to build a residence once the deed for the access road was recorded, which appears to have happened. And so, you know, I think, I think the effect of that affidavit is to tip the scales now in favor of the Potter's showing evidence, substantial evidence on the record that the subdivision was approved by the town council.

Chairman Swenson: So, a question, and forgive me because of my ignorance on this matter specifically and the land use legalities. Let's say that it was subdivided. Happened all the properties here is probably all one parcel the whole town before right so subdivided all over the place. Now Mr. Potter comes in, in 2017 and purchases a parcel of land. Whether it was subdivided or not, he's purchasing this land. He has not subdivided it since he bought it. He is purchasing this twelve acres. Okay. so, he has this twelve acres unrelated to the past, now he owns this in 2017. What gives him the right then in 2017, purchasing a parcel of twelve acres that he is not subdividing, to not be required to comply with the local land, Hillside Ordinance?

Scott Garrett: Well, because once he purchases, the land does not lose all of his history and all of its rights. All the conditions and covenants are under the land. If the land was subdivided in 1997, he still gets the benefit, he didn't have to go back and re subdivide it.

Chairman Swenson: Okay, so I understand that portion, kind of. So, we have dealt with people up on top of the hill, on the other side of the freeway, all that land would have been subdivided into smaller parcels at some point in time. But every one of those parcels are subject to the Hillside Ordinance. Now they are small parcels individual land, which was subdivided some time ago by some rancher. Right. I am thinking aloud here. Okay. Because I cannot understand I, it looks very clear to me that it was subdivided at one point in time, you know, legally, eventually, right. But all these parcels that are subject to hillside ordinances that we do not allow, whatever we do not allow, because they are buying one parcel of land now where I am buying a 12-acre parcel of land, right now. Okay. And now we are saying, well, it is not subject to hillside ordinance, because of something in the past.

Scott Garrett: Well, because, because once he purchases, the land doesn't lose all of his history and all of its rights. All the conditions and covenants are under the land. If the land was subdivided in 1997, he still gets the benefit, he didn't have to go back and re subdivide it.

Chairman Swenson: Okay, so I understand that portion, kind of. So, we've dealt with people up on top of the hill, on the other side of the freeway, all that land would have been subdivided into smaller parcels at some point in time. But every one of those parcels are subject to the Hillside Ordinance. Now they're small parcels individual land, which was subdivided some time ago by some rancher. Right? I am thinking aloud here. Okay. Because I cannot understand. It looks very clear to me that it was subdivided at one point in time, you know, legally, eventually, right? But all these parcels that are subject to hillside ordinances that we do not allow, whatever we do not allow, because they are buying one parcel of land now where I am buying a 12-acre parcel of land, right now. And

now we are saying, well, you are not subject to hillside ordinance, because of something in the past.

Majestic Mountain Road goes all the way to the top, we now have individuals that are looking at developing that whole partial upon top, it has been subdivided. And it was subdivided so that they can purchase it years and years ago. We are dealing with hillside ordinances with all those parcels. Why do they have to do the hillside ordinance? Even though that parcel belongs to somebody else, this family years and years and years ago but they are having to deal with the individual parcels and Hillside ordinances when it does not seem any different then Potter? I am not arguing. I am just wondering why what is the difference?

Scott Garrett: I mean, let me tell you this. So, your hillside ordinance does exempt subdivisions prior to 1989? I mean, they explicitly state that in the ordinance, right? So, I mean, all Mr. Potter's trying to do is assert his own rights, the rights that came with this property, this land appears to have been subdivided in 1997. If that's true, according to your own ordinance, the hillside ordinance, it would not apply.

Lynn Potter: The reason the Hillside Ordinance applies to those is because they are recently subdivided. They've been subdividing since 1999. And that's why the ordinance applies to them.

Chairman Swenson: They've been subdivided into smaller parcels, but it was subdivided prior to that in the bigger parcels. So, is that what you are saying is because it was the existing parcel was subdivided more recent?

Lynn Potter: The Hillside Ordinance starts to apply on property, depending on date of subdivision. If they had those sixty acres up there, they decided not to subdivide it and its original subdivide division was before 1999. They decided just to build one big house up there, the Hillside Ordinance would not apply.

Chairmen Swenson: Okay, that kind of answered my question with that. Forgive me because I am not aware. That kind of clarify that, if that is correct, that would not apply then because it was a bigger parcel divided earlier. Okay. So that is what we are saying is because it was subdivided does not matter, does not matter how many times the hands passed.

Scott Garrett: It doesn't matter, those rights run with the land. Right? The fact that it that was subdivided in 1997 that right passes to Mr. Potter.

Chairman Swenson: So, we may have placed requirements on somebody up on top of this hill above us that did not need to comply with the hillside ordinance? Do not know when that was because they have all been subdivided. I do not know any of this history, forgive me for interrupting your beginning thought, Alan.

Commissioner Roberts: I have a lot of thoughts. You are making an argument that it is a subdivision. I interpret it as a parcel left from Alberta paces subdivision, specifically for a

recorded subdivision. That is a parcel that is remaining. And not only that, in your client's presentation. He even shows records of them wanting to do some kind of a split on the twelve acres for accommodations for some things here. Lynn also presents that Alberta Pace is a, how did he word this? I am going to mess this up, that she and her husband are qualified developers that follow through. I would argue that is not a true statement. Because had that been the case, that roadway that was looked at for an easement would have been totally dedicated and established and we would not be having this debate right now. I could argue that there was not a lot of professionalism in the landowner at the time, as they are looking at what they may or may not want to do with the land, even changing their minds on the twelve acre. Oh, let us look at maybe, can we split a five acre off? And this type of stuff. So, my interpretation of it is that it is a leftover piece, a remaining piece of a subdivision that she truly recorded. That is in Roundy Mountain. Now, the intent was for that road to continue through your client's property at the time instead of being at the end of the cul-de-sac there. But that portion of it was not followed through. Completed, recorded, dedicated, by the landowner at the time. I will also make sure; I want to state this that we are not trying to take away a right for residential property on parcel L-3 -1-7-1110.

Scott Garrett: No, appreciate that. So, is your contention then that it's not that this leftover piece of property that he now owns is not a valid subdivision?

Commissioner Roberts: That's the way I would interpret it. It does not fall underneath what he's referencing on the hillside ordinance that said, this requirements shall not apply to developments or subdivisions that were approved prior to 1999.

Scott Garrett: So, it wouldn't fly because why?

Commissioner Roberts: I do not believe that it is a subdivision.

Lynn Potter: Okay. That argument was brought before the ombudsman. The previous year, it is in the ombudsman minute we can read that decision to you.

Commissioner Roberts: I have read it.

Lynn Potter: His expression was that is not a valid argument. Even if it was a remainder. Its separation took place at a specific time and that specific time is the date that would apply with the hillside ordinance.

Scott Garrett: Here's what it specifically says. Says however, as detailed above, because approved developments or subdivisions is not limited to some divisions creating two or more lots, but instead also includes single subdivisions divided from a larger parcel. The town's conclusion involves an incorrect interpretation of its ordinance. And it even points out that that aspect of your argument makes your decision illegal, because it doesn't comport with your ordinances. And then he goes on to say, that's really not the argument here. The issue is whether or not it was approved, or whether it wasn't approved. Okay. And you can talk to your lawyer about that.

Commissioner Roberts: I have talked to our town attorney. This is not new to me.

Scott Garrett: Whether you guys accept this ombudsman opinion, or you don't, that's up to you.

Commissioner Roberts: Correct. Correct.

Scott Garrett: I mean, this is all we're doing is quoting from this appeal. And I like, I agree with what's in there, factually and we're just trying to base, you know, what we're bringing to you, in large part on the ombudsman opinion. Because these guys, this is what they do. They looked at this input from both sides. They're experts in this field. And, you know, that's kind of what they came back with. So, you guys will have to decide whether you agree with the opinion, or you don't agree. But if you do agree with it, then one lot being split out or a leftover lot that came, that it undergoes, if it goes through the minor lot subdivision process, it is a valid subdivision. And we're asserting that that's what happened here.

Commissioner Roberts: Was it recorded as a subdivision? That is what I am going to revert back. It acquired a new property ID Number Because it was broken off. You can call it a subdivide. We can get into semantics here on terminology.

Scott Garrett: Yeah. Let me ask you this. Why would you... why would you not want to approve it? What's the, what is the policy or the rationale behind you not going along with this?

Commissioner Roberts: Because it, it does fall within a hillside ordinance Overlay

Scott Garrett: Is it safety you're concerned about? Is it building outside of that hillside ordinance? What is it you are concerned about?

Commissioner Roberts: My concern is setting a precedence. A precedence of, hey, that hillside ordinance, that hillside overlay ordinance means nothing. We have had legal battles with other individuals.

Scott Garrett: But, but, but the town set the parameters of the hillside ordinance and the town's the one that decided 1999 was the cutoff date. I mean, I don't know why you guys decided that. But you did. You decided that 1999 was as far back as we were going to go. Anything beyond that? Again, you'd have to look at the minutes, maybe your, you know, why you guys made that decision. But that was a decision made by the town, anything prior to that we're not going to subject to the hillside ordinance. Right? And that was the, the town council that made that decision. And so, I mean, I don't know why that, that, given, given that, I don't believe that your concern is valid, as it relates to that, because you guys are the ones who set the ordinance. And you're the ones that identified 1999 as the magic cutoff date. And talking it you know, and I'm not I'm just I'm just making my client's arguments, and I know how hard it is to do your guy's job because I counseled

with the Iron County Commission for a number of years. So, I can appreciate what you guys go through and how difficult it is. But, you know, talk about, when you're talking about setting a precedent and my client mentioned, it was the firehouse and, you know, it was supposed to go through the minor subdivision process. We have not found proof that it did, yet it exists today. And so that is a precedent too, that you have to deal with.

Commissioner Roberts: You could try to use that and have that be germane. But I could give you the same argument as well. Okay, there was a lack of town documentations to validate that similar to your client's property. So, you can use the same argument on that or many different properties.

Scott Garrett: So, is that your assertion and that it did happen? It just wasn't documented?

Commissioner Roberts: Nope. That is not my assertion.

Scott Garrett: Okay. Well, it's a problem. I mean, it's something that you're going to have to look at and decide, you know, I mean, because you, you know, again, if the laws are to be strictly construed in favor of the property owner, why would we not do this? I mean, it seems like he's, the question really comes down to whether it was approved or not approved. We have evidence going both ways. But we know what the intent was, you know the intent was to approve it. So why, why are we holding back? I think, I think you should approve it, because that was the intent of the commission. Whether it actually got through that last, hey, we're going to vote and approve it. that's what we're really arguing about, but there's no question about what the intent was. So why not, why not approve it and let him? Let him go ahead. He didn't, Lynn Potter didn't set the date of 1999 as the look back date.

Commissioner Roberts: No. No, he did not.

Scott Garrett: He is not responsible for that. That was the town council. And so, here he is. He's just here trying to play by the rules. He's trying to get it done. From my standpoint, I don't see what really the concern is because we know what the intent of the council was, it was to approve the project, whether it actually got approved, which, you know, we can argue about all day. But we know the intent. And we have now a former town councilman, who's going to say, Yeah, our intent was to, and it was approved and subject to the deed being recorded. And that happened, and bam, away we go. So, I don't, I don't see what the holdup is, you know, this isn't Mr. Potter's problem. It's not his fault. He's just trying to assert his rights, based upon the rules that were set by the town council. We know what the intent was, we're asking you to go ahead and approve this. I know you have the hillside ordinance. I know it's important to you.

Commissioner Roberts: We get challenged on a lot of things. I am not afraid of challenges, but I want to make sure that if I am going to get challenged, I want to make sure that I am going to be able to stand my ground.

Scott Garrett: Sure. So that's the arguments that we have for you. And I don't know, if you have more questions, we can answer more questions, if you do, we really would like to see you forward this to the town council. With the recommendation that you say that it was approved as a subdivision based upon the past history, and the documentation that's been provided.

Commissioner Rosenthal moved to table the Discussion Possible Action Item Regarding Potter Property until receiving counsel from the town attorney to help guide the decision. Commissioner Roberts seconded the motion. Motion passed in a roll call vote.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
CHAIRMAN: DANNY SWENSON	<u>X</u>	—	—	—
COMMISSIONER: ALAN ROBERTS	<u>X</u>	—	—	—
COMMISSIONER: KEN HADLEY	—	—	—	<u>X</u>
COMMISSIONER: TOM DARTON	—	—	—	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	—	—	—

Scott Garrett requested confirmation that the Planning Commission would address the subject next meeting. Chair affirmed Commissioners would address it at the June 2022 Planning Commission meeting.

Lynn Potter submitted the electronic files of the PowerPoint Presentation to the town clerk and gave verbal permission to give the thumb drive to the attorney.

Action on Ordinance 2022-03, General Plan

Commissioner Roberts moved to recommend acceptance of Ordinance 2022-03, General Plan to the town council. Commissioner Rosenthal 2nd the motion.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
CHAIRMAN: DANNY SWENSON	<u>X</u>	—	—	—
COMMISSIONER: ALAN ROBERTS	<u>X</u>	—	—	—
COMMISSIONER: KEN HADLEY	—	—	—	<u>X</u>
COMMISSIONER: TOM DARTON	—	—	—	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	—	—	—

Action on Ordinance 2022-04, Annexation Policy Plan

Commissioner Roberts made a motion to recommend acceptance of Ordinance 2022-04, Annexation Policy Plan to town council. Commissioner Rosenthal 2nd the motion.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
CHAIRMAN: DANNY SWENSON	<u>X</u>	—	—	—

COMMISSIONER: ALAN ROBERTS	<u>X</u>	—	—	—
COMMISSIONER: KEN HADLEY	—	—	—	<u>X</u>
COMMISSIONER: TOM DARTON	—	—	—	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	—	—	—

Action on Resolution 2022-02, Adopt Modified State Code 10-9A-530, Internal Accessory Units

Commissioner Roberts made a motion to approve Resolution 2022-02, Adopt Modified State Code 10-9A-530, Internal Accessory Units. Commissioner Rosenthal 2nd the motion.

ROLL CALL VOTE:

	Yea	Nay	Abstain	Absent
CHAIRMAN: DANNY SWENSON	<u>X</u>	—	—	—
COMMISSIONER: ALAN ROBERTS	<u>X</u>	—	—	—
COMMISSIONER: KEN HADLEY	—	—	—	<u>X</u>
COMMISSIONER: TOM DARTON	—	—	—	<u>X</u>
COMMISSIONER: MARK ROSENTHAL	<u>X</u>	—	—	—

Discussion Possible Action Regarding Addendum to Chapter 9, Performance and Standards for Hazardous and Other Uses

Commissioner Roberts and Chairman Swenson expressed concern regarding evening and week-end time restrictions being an overreach. Construction that does not create noise was used for an example of the needs for exception. It was recommended to include an exempt form in the building permit packet for applicant's options

Commissioner Rosenthal: I mean, as coming from the construction industry myself. I understand what you are saying. Going forward and saying okay, we are going to do it. It is six o'clock at night, seven o'clock at night, eight o'clock at night. And we are going to do XYZ inside the structure that can morph into other components of the construction activity. A contractor is deadline for another project. He sends his crew to the construction site to finish off their portion of the job. And it may not be inside and may not be quiet. By establishing a timeline and a way to work beyond it legally through the town. It addresses that concern. We have towns around us that have instituted an ordinance saying you cannot work past a certain time at night and have addressed the opportunity for a contractor to do that with the extension permit process. I cannot imagine that they implemented that ordinance because they just felt like it. Certainly, there must have been concerns and complaints put forward to the town to have them move in that direction.

Commissioner Roberts made amotion to recommend approval of Addendum to Chapter 9, Performance and Standards for Hazardous and Other Uses to town council. Chairman Swenson 2nd. Motion passed in a roll call vote.

ROLL CALL VOTE:

Yea	Nay	Abstain	Absent
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CHAIRMAN: DANNY SWENSON
COMMISSIONER: ALAN ROBERTS
COMMISSIONER: KEN HADLEY
COMMISSIONER: TOM DARTON
COMMISSIONER: MARK ROSENTHAL

<u>X</u>	---	---	---
<u>X</u>	---	---	<u>X</u>
---	---	---	<u>X</u>
<u>X</u>	---	---	---

9. Discussion Items: None

10 Staff Reports: None

The meeting adjourned at 10.08 pm.

APPROVED ON THIS FIRST DAY OF JUNE 2022



Danny Swenson, Chairman

ATTEST:



Aseneth Steed, Town Clerk/Recorder